HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: - Hon'ble Shri S.R. NAYAK, CJ

WRIT PETITION NO. 5777 OF 2005

PETITIONER Municipal Corporation, Raipur, Through Commissioner, Municipal Corporation, Raipur (C.G.).

DEFENDANT NO.1

Versus

RESPONDENTS

1. M/s Mangilal Pagariya, Builders and Contractors, Through Partnership Firm, Sushil Chandra Pagariya, Pagariya House, New Bus Stand, Pandri, Raipur, District Raipur (C.G.).

PLAINTIFF

2. Joint Director, Town and Country Planning, R.D.A. Building, Sharda Chowk, Raipur, District Raipur (C.G.).

DEFENDANT NO.2

3. First Additional District Judge, Raipur, District Raipur (C.G.).

Present:

Mr. H.B. Agrawal, Sr. Advocate with Mr. Santosh Yadu, learned counsel for the petitioner.

O R D E R

(Passed on 29th November 2005)

The first respondent herein has filed a suit before the Court below for declaration of title and permanent injunction. The suit was filed at a stage when the petitioner herein threatened to demolish the suit property for the alleged violation of Municipal Law. The plaintiff, therefore, filed an application under Order 39 Rule 1 and 2 of the Code of Civil Procedure for

temporary injunction and that application came to be rejected. Being aggrieved by that order, it preferred an appeal and the appellate Court has granted injunction restraining the petitioner herein from demolishing the suit schedule property, pending disposal of the suit. Being aggrieved by the said order, Municipal Corporation of Raipur, defendant in the suit has preferred this writ petition under Article 227 of the Constitution of India.

2. I have heard learned counsel for the petitioner. The order made by the appellate Court is equitable and intended to protect the property in the event of plaintiff succeeding in the suit. The order passed by the appellate Court, therefore, cannot be faulted with. The writ petition is therefore, dismissed. However, the trial Court is directed to expedite the trial of the suit and dispose of the same as expeditiously as possible at any rate within a period of one year from the date of receipt of a copy of this order. Registry is directed to send a copy of this order to the trial Court forthwith.

Sd/-
Chief Justice

Subbu